

REMARKS

In the Office Action dated May 5, 2006, the Examiner objected to the specification (and claim 8) based on informalities; rejected claims 13 and 21-24 under 35 U.S.C. § 112, second paragraph, as being indefinite; rejected claims 1-4, 6, 8, 10-18, 20-29, 35, 36, and 38 under 35 U.S.C. § 102(b) as being anticipated by European patent application EP 0536297 ("EP '297"); rejected claims 20-34 under 35 U.S.C. § 102(b) as being anticipated by UK patent application GB 2168263 ("GB '263"); rejected claims 1, 3, 4, 6, and 10-13 under 35 U.S.C. § 102(b) as being anticipated by German patent publication no. DE 19816871 A1 ("DE '871"); rejected claims 5, 7, and 37 under 35 U.S.C. § 103(a) as being unpatentable over EP '297 in view of U.S. Patent No. 6,168,653 to Myers; rejected claim 9 under 35 U.S.C. § 103(a) as being unpatentable over EP '297 in view of U.S. Patent No. 5,269,917 to Stankowski; and rejected claim 19 under 35 U.S.C. § 103(a) as being unpatentable over EP '297 in view of GB '263.

By this Reply, claims 1-21 and 28 have been amended, claims 22-27 and 29-38 have been canceled, and claims 39-46 have been added to more clearly recite Applicant's invention. Accordingly, claims 1-21, 28, and 39-46 are pending in the above-captioned patent application. Applicants also have amended the specification to overcome the Examiner's objection and have accordingly provided a Replacement Abstract.

At the outset, Applicant respectfully notes that the Examiner's objection to the specification and claim 8, based on informalities, are moot in light of the amendment of the specification and claim 8. Further, Applicant respectfully notes that the Examiner's

rejection of claims 13 and 21-24 under 35 U.S.C. § 112, second paragraph, are moot in light of the amendment of these claims 13 and 21 and cancellation of claims 22-24.

Applicant respectfully traverses the Examiner's rejection of claims 1-4, 6, 8, 10-18, 20-29, 35, 36, and 38 under 35 U.S.C. § 102(b) as being anticipated by EP '297. In order to properly anticipate Applicants' claimed invention under 35 U.S.C. § 102(b), each and every element of the claim in issue must be found, either expressly described or under principles of inherency, in a single prior art reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ...claim." See M.P.E.P. § 2131 (8th Ed., Aug. 2001), quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Finally, "[t]he elements must arranged as required by the claim." M.P.E.P. § 2131 (8th ed. 2001), p. 2100-69.

The Examiner asserts that "EP '297 teaches a membrane for removing bacteria and viruses from a fluid...[including] reliefs (26) defined in surfaces of the end portions." (Office Action at 3.) EP '297 does not teach, however, "[a]n extracorporeal blood circuit comprising an auxiliary line having at least a first end communicating with said extracorporeal blood circuit and a second end communicating with a medical apparatus during operation, said auxiliary line being provided with at least one device for protecting said medical apparatus" (emphasis added), as recited in amended claim 1, wherein the protecting device in the auxiliary line comprises the elements recited in amended claim 1. In particular, EP '297 fails to teach an extracorporeal blood circuit comprising an auxiliary line having a protecting device. Thus, for the above reasons, Applicant respectfully submits that claims 1 is not anticipated by EP '297 and is

allowable. Moreover, claims 2-4, 6, 8, 10-18, 20, 21, and 28 are allowable at least due to their dependence from allowable claim 1.

Moreover, with respect to claim 8, Applicant further disagrees with the Examiner's characterization of the teachings of EP '297, regarding reliefs (26). In particular, reference numeral 26, cited by the Examiner, does not refer to "reliefs" that emerge from the internal surface of the first and second end portions, as recited in claim 8. Rather, reference numeral 26 refers to "a plurality of channels 26 extending through the thickness of the [filter] support" (page 6, lines 25-26), which is not connected to the end portions in EP '297. Accordingly, EP '297 lacks the claimed "reliefs" recited in claim 8 and claim 8 is allowable for this additional reason.

Applicant respectfully traverses the Examiner's rejection of claims 20-34 under 35 U.S.C. § 102(b) as being anticipated by GB '263, and note that the Examiner's rejection is moot with regards to canceled claims 22-27 and 29-34. As amended, pending claims 20, 21, and 28 all depend from claim 1. Applicants submit that GB '263 suffers from at least the same deficiencies as EP '297, discussed above, and does not teach each and every limitation of amended claim 1. The Examiner contends that GB '263 "teaches a filter for protecting medical devices, comprising a hollow body." (Office Action at 3.) GB '263, however, does not teach "[a]n extracorporeal blood circuit comprising an auxiliary line having at least a first end communicating with said extracorporeal blood circuit and a second end communicating with a medical apparatus during operation, said auxiliary line being provided with at least one device for protecting said medical apparatus" (emphasis added), as recited in amended claim 1, wherein the protecting device in the auxiliary line comprises the elements recited in

amended claim 1. In particular, GB '263 fails to teach an extracorporeal blood circuit comprising an auxiliary line having a protecting device. Accordingly, claim 1 is not anticipated by GB '263 and is allowable. Moreover, claims 20, 21, and 28 are allowable at least due to their dependence from amended claim 1.

Applicant respectfully traverses the Examiner's rejection of claims 1, 3, 4, 6, and 10-13 under 35 U.S.C. § 102(b) as being anticipated by DE '871. Applicants submit that DE '871 does not teach each and every limitation of amended claim 1. The Examiner contends that DE '871 "teaches a filter for protecting a medical device, comprising a hollow body." (Office Action at 4.) DE '871, however, fails to teach [a]n extracorporeal blood circuit comprising an auxiliary line having at least a first end communicating with said extracorporeal blood circuit and a second end communicating with a medical apparatus during operation, said auxiliary line being provided with at least one device for protecting said medical apparatus" (emphasis added), as recited in amended claim 1, wherein the protecting device in the auxiliary line comprises the elements recited in amended claim 1. In particular, DE '871 fails to teach an extracorporeal blood circuit comprising an auxiliary line having a protecting device. Accordingly, claim 1 is not anticipated by DE '871 and is allowable. Moreover, claims 3, 4, 6, and 10-13 are allowable at least due to their dependence from amended claim 1.

Applicant also respectfully traverses the Examiner's rejection of claims 5, 7, and 37 under 35 U.S.C. § 103(a) as being unpatentable over EP '297 in view of Myers. The Examiner contends that "EP '297 discloses all of the limitations of the claims except that the intermediate portion is molded of plastic and that the union zones are subjected to ultrasonic welding." (Office Action at 4.) As discussed above, however, the Examiner's

contention is incorrect. EP '297 fails to teach every element of amended claim 1, from which amended claims 5 and 7 depend. The Examiner also contends that Myers “discloses a membrane housing...having molded plastic parts that are ultrasonically welded under pressure.” (Office Action at 4.) Myers, however, fails to overcome the above-mentioned deficiencies of EP '297. Accordingly, both Myers and EP '297, fail to teach or suggest “[a]n extracorporeal blood circuit comprising an auxiliary line having at least a first end communicating with said extracorporeal blood circuit and a second end communicating with a medical apparatus during operation, said auxiliary line being provided with at least one device for protecting said medical apparatus,” as recited in amended claim 1, wherein the protecting device in the auxiliary line comprises the elements recited in amended claim 1. Accordingly, claims 5 and 7 are thus allowable at least due to their dependence from amended claim 1.

Applicant further respectfully traverses the Examiner's rejection of claim 9 under 35 U.S.C. § 103(a) as being unpatentable over EP '297 in view of Stankowski. The Examiner asserts that “EP '297 discloses all of the limitations of the claim except that the reliefs are ribs arranged tangentially and communicating with a central zone by means of radial channels defined by the reliefs.” (Office Action at 5.) As discussed above, however, the Examiner's contention is incorrect. EP '297 fails to teach every element of amended claim 1, from which amended claim 9 indirectly depends, and claim 8 from which claim 9 directly depends. The Examiner contends that Stankowski “discloses a membrane housing having a striker surfaces defined by a plurality of tangential reliefs.” (Office Action at 5.) Stankowski, however, fails to overcome the

above-mentioned deficiencies of EP '297. Claim 9, therefore, is allowable at least due to its dependence from amended claim 1.


In addition, Applicant respectfully traverses the Examiner's rejection of claim 19 under 35 U.S.C. § 103(a) as being unpatentable over EP '297 in view of GB '263. The Examiner contends that "EP '297 discloses all of the limitations of the claim except that the seal zones have rounded corners." (Office Action at 5.) As discussed above, however, the Examiner's contention is incorrect. EP '297 fails to teach every element of amended claim 1, from which amended claim 19 depends. The Examiner contends that "GB '263 discloses a membrane housing as described in paragraph 8 above." (Office Action at 5.) GB '263, however, fails to overcome the above-mentioned deficiencies of EP '297. Neither EP '297, nor GB '263 teaches or suggests every element of amended claim 1. Accordingly, amended claim 19 is allowable at least due to its dependence from amended claim 1.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims. Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 1, 2006

By: 
Aaron L. Parker
Reg. No. 50,785

Attachments: **1) a Replacement Abstract**